UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ACADEMY OF MOTION PICTURES ARTS AND SCIENCES, a California non-profit corporation, Plaintiff, v. AMPAS.COM, an Internet domain name, Defendant.	)	Civil Action No. 1:07-cv-356-LMB-LO

[PROPSED] ORDER GRANTING PLAINTIFF'S MOTION FOR A
<u>DEFAULT JUDGMENT TRANSFERRING <AMPAS.COM> TO PLAINTIFF</u>

This cause having come on for hearing upon the motion of Plaintiff ACADEMY OF MOTION PICTURES ARTS AND SCIENCES ("A.M.P.A.S.") under Federal Rule of Civil Procedure 55(b)(2) for a default judgment transferring to A.M.P.A.S. control of the domain name <ampas.com>, and upon the accompanying Memorandum of Law, Declaration of Scott Miller, Declaration of Brian Kang, and all other papers, exhibits and proceedings therein;

This Court having given full consideration to all of A.M.P.A.S.'s papers and the relevant authorities and in accordance with Federal Rule of Civil Procedure 55(b)(2);

IT IS HEREBY ORDERED, ADJUDGED AND DECLARED:

1. This court has subject matter jurisdiction under 15 U.S.C. § 1125(d)(2)(A) and 28 U.S.C. §§ 1331 and 1338.

2. A.M.P.A.S. owns the A.M.P.A.S.® mark as described more particularly in the Complaint.

Dockets.Justia.com

3. The A.M.P.A.S.® mark and the <ampas.com> domain name are identical or confusingly similar.

4. The A.M.P.A.S.® mark is famous and was famous, within the meaning of the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. §§ 1125(d)(1)(A)(ii)(II), when the <ampas.com> domain name was registered.

5. The registrant of the domain name <ampas.com> has a bad faith intent to profit from the registration and use of the A.M.P.A.S.® mark.

6. The registrant of the domain name <ampas.com> used the A.M.P.A.S.® mark in commerce in connection with the sale, offering for sale, distribution, or advertising of goods or services in a manner likely to confuse consumers.

7. This commercial use of the A.M.P.A.S.® mark by the registrant of the domain name <ampas.com> began after the A.M.P.A.S.® mark had become famous and dilutes, or is likely to dilute, the distinctive quality of the A.M.P.A.S.® mark by reducing its capacity to identify goods or services.

Accordingly, IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECLARED:

1. Under 15 U.S.C. § 1125(d)(2), the domain name <ampas.com> is ORDERED TRANSFERRED to A.M.P.A.S..

2. The registry for ".com" domain names, VeriSign Global Registry Services, 21345 Ridgetop Circle, Dulles, VA 20166, is DIRECTED to change the registrar of record for the defendant domain name <ampas.com> from the current registrar, OnlineNIC.com, Inc., to a registrar selected by A.M.P.A.S., which subsequently will register the domain name in the name of A.M.P.A.S..

3. This Order Granting Plaintiff's Motion, together with copies of the papers upon which it is granted, shall be served on the non-parties registrant, registrar, and registry of the domain name <ampas.com>.

4. Service of a copy of this Order Granting Plaintiff's Motion, together with copies of the papers in support thereof, shall be sufficient if served by ______________________, 2007 upon the non-party domain name registrant by Federal Express at <ampas.com>, Attn: Lin ZanSong, 1688 RM RD., Wenzhou, Zhejiang, China 325000, and by email at master@21cn.net; upon the non-party domain name registrar by Federal Express at OnlineNIC.com, Inc., 2315 26th Avenue, San Francisco, CA 94116, and by email at info@onlinenic.com; and upon the non-party domain name registry by overnight mail at VeriSign Global Registry Services, Attn: Alexander B. Berger, Litigation Counsel, 21345 Ridgetop Circle, Dulles, VA 20166, and by e-mail at aberger@verisign.com.

SO ORDERED.

____
Honorable Leonie M. Brinkema
United States District Court Judge

Dated: ___________________________, 2007

CERTIFICATE OF SERVICE

I hereby certify that the foregoing [Proposed] Order Granting Plaintiff's Motion for a Default Judgment Transferring <AMPAS.COM> to Plaintiff was filed with the Clerk of the Court using the CM/ECF system, and that a copy was served via Federal Express and email on the registrant of the defendant domain name, which is a non-filing user, at the postal and email addresses set forth below:

Lin ZanSong
1688 RM RD.
Wenzhou, Zhejiang
China 325000
Email: master@21cn.net

this 15th day of August, 2007.

_________/s/_______________

Maureen E. Carr
Virginia State Bar No. 72802
Counsel for Academy of Motion Pictures
Arts and Sciences
REES BROOME, PC
8133 Leesburg Pike, Ninth Floor
Vienna, Virginia 22182
(703) 790-1911 (phone)
(703) 790-5249 (fax)
mcarr@reesbroome.com

K:\01\01598\00001\PLDNGS\070801 proposed order granting motion for default jmt.doc